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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/890,869      | 08/07/2001  | Anthony David Smith  | Q65784              | 9131             |

7590 01/14/2005

Sughrue Mion Zinn Macpeak & Seas  
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| EXAMINER |
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RAO, ANAND SHASHIKANT

|          |              |
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| ART UNIT | PAPER NUMBER |
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2613

DATE MAILED: 01/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/890,869

Applicant(s)

SMITH ET AL.

Examiner

Andy S. Rao

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 August 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. As per the instructions filed on 8/17/04, claims 12-16 have been canceled.
2. Applicant's arguments with respect to claims 1-11 as filed on 8/17/04 have been considered but are moot in view of the new ground(s) of rejection based on newly cited portions of the previously applied references.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-11 rejected under 35 U.S.C. 102(b) as being anticipated by Pomerleau.

Pomerleau discloses a method of operating a monitoring system using an image capture device (Pomerleau: figure 4), the method characterized by the steps of : defining a number of sectors (Pomerleau: column 7, lines 65-68; column 8, lines 1-8) on the field of view of the image capture device (Pomerleau: column 6, lines 10-20); and assigning at least one independent monitoring to each of the sectors (Pomerleau: column 9, lines 25-53); assigning at least one independent control parameter to each of the sectors (Pomerleau: column 5, lines 30-62); and signaling different and independent outputs for each of the sectors on the independent control parameter or parameters assigned to each sector (Pomerleau: column 6, lines 30-40), as in claim

1.

Regarding claim 2, Pomerleau discloses that the positioning and the size of the sectors are selectable by an operator of the system (Pomerleau: column 5, lines 50-62), as in the claim.

Regarding claim 3, Pomerleau discloses that each sector can be enabled simultaneously with the other sectors (Pomerleau: column 10, lines 53-68; column 11, lines 1-26), as in the claim.

Regarding claim 4, Pomerleau has assigned to it at least one event definition parameter (Pomerleau: column 10 lines 55-60), as in the claim.

Regarding claim 5, Pomerleau discloses that the event definition is motion detection (Pomerleau: column 6, lines 10-15), as in the claim.

Regarding claims 6-7, Pomerleau discloses that the control function is storage of data relating to an event (Pomerleau: column 5, lines 10-20), as in the claims.

Regarding claim 8, Pomerleau discloses that the control function is motion tracking by the image capture device (Pomerleau: column 8, lines 7-24), as in the claim.

Regarding claim 9, Pomerleau discloses that the control function is the triggering of an alarm (Pomerleau: column 7, lines 35-40), as in the claim.

Regarding claim 10, Pomerleau discloses a monitoring system operable by the method (Pomerleau: figure 2), as in the claim.

Regarding claim 11, Pomerleau discloses a hardware system containing a set of instructions for operation of a monitoring system according to the method (Pomerleau: column 5, lines 5-15), as claimed.

*Conclusion*

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andy S. Rao whose telephone number is (703)-305-4813. The examiner can normally be reached on Monday-Friday 8 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris S. Kelley can be reached on (703)-305-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andy S. Rao  
Primary Examiner  
Art Unit 2613

asr  
January 11, 2005

ANDY RAO  
PRIMARY EXAMINER

